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Supreme Court, U.S.
FILED
APR 2 9 2005
OFFICE OF THE CLERK

No. 04-1315

IN THE

# Supreme Court of the United States

LONG ISLAND CARE AT HOME, LTD. AND MARYANN OSBORNE,

*Petitioners,*

v.

EVELYN COKE,

*Respondent.*

**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit**

## BRIEF OF *AMICUS CURIAE* CONTINUING CARE LEADERSHIP COALITION, INC. IN SUPPORT OF PETITIONER

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WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D. C. 20001

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## BRIEF OF *AMICUS CURIAE* CONTINUING CARE LEADERSHIP COALITION, INC. IN SUPPORT OF PETITIONER

Pursuant to Rule 37(2)(a) of the Rules of this Court, this brief is respectfully submitted on behalf of *amicus curiae* the Continuing Care Leadership Coalition ("CCLC") in support of the Petition for Writ of Certiorari filed by Petitioner Long Island Care at Home, Ltd. The consent of the parties to the filing of this brief has been received, and has been submitted to the Court.[1]

[1] No counsel for a party authored this brief in whole or in part; nor did any person or entity, other than *amicus* and its counsel, make a monetary contribution to the preparation or submission of this brief.

## IINTEREST OF *AMICUS CURIAE*

The Continuing Care Leadership Coalition (CCLC) represents the interests of over 100 not-for-profit and public organizations providing long term care services in metropolitan New York and beyond. Our membership includes forty-three (43) mission-driven home care providers who offer essential health care and other services to tens of thousands of individuals in their homes. The remainder of our membership relies heavily on the existing home care system in order to provide a full range of long term care services to older and disabled individuals in nursing facilities, adult day health care programs, and other community-based settings.

Specifically, CCLC supports and promotes high-quality, cost-effective long term care services for citizens of New York State on behalf of our long term care provider members. CCLC acts as an advocate for its members with respect to issues pertaining to payment and reimbursement, policy analysis and implementation, regulatory and professional affairs and, in that capacity, is familiar with the circumstances facing its members and the potential impact of this case.

The issue before the Court is of exceptional importance to CCLC and its member organizations, and CCLC is in a unique position to describe the potentially severe negative impact of the decision below—that the third-party employer exemption in 29 C.F.R. § 522.109(a) is unenforceable[2]—on health care providers in New York State.

Indeed, CCLC's members and their affiliates will be severely injured by increased costs for home care services, costs that cannot be absorbed by a financially fragile health care sector that disproportionately relies on government reimbursement. Thus, the outcome of this case is of critical importance to the immediate and future financial viability of CCLC's members and their affiliates and their ability to

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[2] *Coke v. Long Island Care at Home, Ltd.*, 376 F.3d 118 (2d Cir. 2004).

provide needed services to elderly and disabled residents of New York.

## SUMMARY OF ARGUMENT

Since the 1970s, New York State has structured the delivery of home care services upon long-standing regulations promulgated by the U.S. Department of Labor, which provided a third party employer exemption from federal minimum wage and overtime pay requirements. Within the past year, these long-standing regulations were a key factor in the successful labor-management bargaining process. The court decision below invalidated these regulations, a decision that has the grave potential to destabilize home care service delivery, the long term care system (which heavily relies on home care services), and the broader health care system in New York.

Specifically, the decision below will undermine advancements in care for the disabled, moving backward from the seminal *Olmstead* decision, which requires states to provide services in the least restrictive and most appropriate setting. Additionally, the decision below threatens New York's innovative managed long term care program, which allows frail older people to remain in the community and receive health care services through a capitated financing arrangement.

Furthermore if the decision below stands, it will have a severe negative impact on tens of thousands of older and disabled individuals receiving home care services through CCLC's member provider organizations. The decision will drive home care costs up, costs that cannot be absorbed by a financially fragile health care sector that disproportionately relies on government sources (predominately Medicaid) for primary payment.

Therefore, CCLC respectfully requests that the Court grant Long Island Care at Home's Petition for Writ of Certiorari.

## ARGUMENT

### I. THE INVALIDATION OF THE THIRD PARTY EMPLOYER EXEMPTION SEVERELY UNDERMINE'S NEW YORK'S HEALTH CARE SYSTEM AND THE QUALITY OF CARE TO ITS PATIENTS

#### A. The Decision Below Will Have a Severe Negative Impact on the Continuum of Care in New York.

##### 1. *Impact on the Long Term Care System*

The court's invalidation of the third party employer exemption will directly increase expenses for long term care organizations that operate home health care agencies and will also increase expenses for other components of the health care system that rely on home health care services. The resulting disruption in the continuum of care will negatively affect patients receiving and seeking health care services.

Long term care organizations provide an essential service to patients and families by caring for New York's older and disabled population. The continuing care system consists of various components, including but not limited to, skilled nursing care, home health care, managed long term care programs, subacute care, and adult day health care. CCLC's member organizations, in particular, provide long term care for a variety of specialty populations beyond the frail elderly that include children, people with HIV/AIDS, people with Alzheimer's Disease or other dementias, people with traumatic brain injury, people with Huntington's disease, and the visually or hearing impaired.

CCLC's member organizations have been at the forefront of innovation in long term care financing and service delivery. During the 1970s, New York made a commitment to integrating home and community-based care into the long

term care system.[3] Consistent with this commitment, many of CCLC's members played pioneering roles in the development and expansion of home and community based services and the development of managed long term care programs, which include the Social HMO and the Program of All-Inclusive Care for the Elderly (PACE) programs.[4]

Unfortunately, long term care providers in New York and throughout the nation rely heavily on governmental payments that typically do not reflect current health care costs. This necessity contributes significantly to a situation in which a substantial proportion of long term care providers are financially at risk.[5] Based upon CCLC's analysis of audited financial statements for the most recent year in which data are available, 2003, over half (317 or 55%) of 572 long term care organizations (including freestanding nursing homes and multi-service long term care organizations) in New York State with available data experienced negative operating margins.

Of these financially distressed organizations, a substantial percentage operate home health agencies and thus would be subject to additional financial hardship should the court's

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[3] Ellen Rosenzweig, Home Care, New York Elder Law Handbook (2000).

[4] Jennifer Rosenbaum, Jurgis Karuza, *et. al.*, Long Term Care, Project 2015: The Future of Aging in New York State, New York State Office for the Aging (2000) *available at* http://aging.state.ny.us/explore/project2015/artLTC.pdf. *See also* Alene Hokenstad, Keeping Care at Home: Strategies for Expanding Medicaid Managed Long Term Care, United Hospital Fund (Mar. 2004) *available at* http://www.uhfnyc.org/usr_doc/keeping_care_at_home.pdf.

[5] Robyn Stone, Long Term Care for the Elderly with Disabilities: Current Policy, Emerging Trends, and Implications for the Twenty-first Century, Milbank Memorial Fund (2000) *available at* http://www. milbank.org/reports/0008stone/. *See also* BDO Seidman, A Report on Shortfalls in Medicaid Funding for Nursing Home Care (Dec. 2003) *available at* http://www.ahca.org/brief/seidmanstudy0312.pdf.

decision stand. These financial strains would compound existing cost pressures associated with an increasingly burdensome set of regulatory requirements, a variety of workforce challenges, and resource intensive quality improvement initiatives.

### 2. *Impact on Home Care Wage and Benefit Negotiations*

Long term care providers share an interest in paying home care workers a reasonable wage and benefit package in order to retain talented staff. As home care agencies grapple with a limited supply of talented staff as a result of workforce shortages and the projected demand for long term care workers to care for our aging population, they have made progress toward achieving important wage and benefit increases, reflected in recent labor negotiations.[6] However, the court's decision will significantly disrupt the progress of recognizing the common need for a reasonable wage and benefit package and undermine achievements made between labor and management. Not only will the court's decision destabilize the labor-management bargaining process, but it will also create new unfunded expenses, further distressing a significant proportion of New York's long term care organizations.

### 3. *Impact on the Flow of Health Care*

The court's decision below will also obstruct the flow of health care delivery between hospitals and home health care agencies. Home health care services are an essential part of the continuum of care for patients who receive both long term and acute care services. Hospitals rely on home health agencies to receive and care for patients who can be discharged home, rather than having patients linger in the hospital for longer than necessary. Particularly for individuals in New

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[6] Lisa Colangelo, Aides Strike Ends, New York Daily News (June 10, 2004) at 44.

York City that are discharged from the hospital to a home health agency through The Bridge Program, the court's decision will be harmful. The Bridge Program is an expedited hospital discharge program under the direction of the New York City Human Resources Administration that allows hospital patients to be discharged to Certified Home Health Agencies pending the availability of personal care services.

More generally, the court's decision, by creating disruptions in the continuity of care provided by home health agencies, impairs the ability of hospitals to discharge patients to more appropriate home and community settings in a timely manner, and thus increases the average length of stay and creates a new financial burden on already financially fragile acute care institutions. Based on CCLC's recent analysis of 2002 State hospital discharge data, CCLC estimates that a one day increase in the length of stay for patients in New York hospitals that are discharged to home health agencies would cost the health care system $96 million. Because of the shared responsibilities involved in Medicaid reimbursement, an additional day will increase costs to hospitals, the State, local governments, the Federal government, and the workers' compensation system. In addition to this undesirable economic effect, an increased length of stay will result in less access to hospital beds for patients who need them.

### B. The Decision Below Undermines New York's Capacity to Fulfill Its Commitment to Home Care Services as an Essential Element of the Long Term Care System.

#### 1. *Inconsistency with the* Olmstead *Decision*

The court's decision will undermine New York's commitment to home care as an essential element of the State's long term care system. Since the 1970s, when New York State made a policy decision to make home care services a core element of our long term care system, New York has contin-

ued its commitment to offering long term care services in the least restrictive setting by supporting its home and community-based services programs. New York's commitment to home care is consistent with the U.S. Supreme Court's decision in *Olmstead*[7], which found that state and public agencies must make reasonable accommodations to enable disabled individuals to receive services in the least restrictive setting under Title II of the Americans with Disabilities Act (ADA). The generous mix of home and community-based programs available to older and disabled people has helped over 121,000 older New Yorkers, 76% of whom are in the New York City region, continue to live in the community with the needed supports.[8]

In fact, Federal and State agencies have supported programs pursuant to *Olmstead* to help patients, families and other informal caregivers take care of loved ones at home and lead more normal lives. The Bush Administration announced the New Freedom Initiative on February 1, 2003, which is aimed to encourage home and community-based care for older and disabled persons and establish grants to help States implement their plans pursuant to *Olmstead*.[9] On August 17, 2004, the U.S. Department of Health and Human Services, Center for Medicare and Medicaid Services, reconfirmed its commitment to supporting *Olmstead* through the Money Follows the Person program, which emphasizes the need for a

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[7] *Id.*

[8] *See* Ex. A (Memorandum from Neil P. Benjamin, Assistant Director, Division of Health Facility Planning, New York State Department of Health, to Members of the Planning Committee and the Codes and Regulations Committee of the State Hospital Review and Planning Council (Jan. 17, 2003) (submitted to consider use of home and community services in the development of a revised methodology to update the nursing home utilization data)).

[9] Exec. Order No. 13217, 66 Fed Reg. 33155 (June 18, 2001), *available at* http://www.whitehouse.gov/news/releases/2001/06/20010619.html.

solid long term care system that features home and community-based care.[10] In New York State, Governor Pataki created the Most Integrated Setting Coordinating Council guided by the principles set forth under the *Olmstead* decision to empower older and disabled individuals to live more independently in the community[11] and reiterated this commitment in his State of the State address on January 5, 2005. Insofar as the court's decision will undermine and destabilize the home care infrastructure in New York, the decision is inconsistent with and detrimental to the above State and federal efforts to promote and expand home and community based services.

### 2. *Impact on New York's Managed Long Term Care Program*

The court's decision and the resulting inevitable increase in costs for home health agencies will also damage one particular component of the long term care system, managed long term care programs. Managed long term care programs allow nearly 12,000 frail older and disabled New Yorkers, 89% of whom are in the New York City region, to remain in the community and receive needed long term care services.[12] Unlike the typical home health care patient, participants in the managed long term care program are frail enough to enter a nursing home. Managed long term care programs allow older

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[10] Letter from Dennis Smith, Director, Center for Medicaid and State Operations, Center for Medicare and Medicaid Services, U.S. Department of Health and Human Services to State Medicaid Directors (Aug. 17, 2003) (submitted to State Medicaid Directors updating States on CMS' commitment to principles under *Olmstead*) (http://www.cms.hhs.gov/states/letters/smd081704.pdf).

[11] New York State Department of Health, Most Integrated Setting Coordinating Council (Aug. 2004) *available at* http://www.health.state.ny.us/nysdoh/miscc/index.html.

[12] New York State Department of Health, Managed Long Term Care Enrollment by Provider and County (Aug. 2004) (http://www.health.state.ny.us/nysdoh/mancare/medicaid/2004/en8_04.pdf).

people to live at home and receive health services, such as medical care, social services, nutritional services, and rehabilitation, through the program.[13] The current level and structure of home health care services are essential to the managed long term care program and to meeting patients' preferences to remain in the community.

Because managed long term care programs are reimbursed through a fixed, capitated payment for each participant, an increase in the cost for home health care services will gravely affect this important program. Managed long term care programs must negotiate a Medicaid payment rate with the New York State Department of Health on an annual basis. The currently negotiated rates would not reflect the increased costs for home health care that are inevitable if the court's decision is upheld. In future years, the State might choose not to increase payment rates (in fact, in New York's recently adopted budget for State Fiscal Year 2005-2006, managed long term care premiums were explicitly frozen until at least March 31, 2006) and managed long term care plans would be forced to turn away new participants, reduce services, or even close in order to pay for the cost of services provided. In addition, the court's decision will disrupt other components of the long term care system that rely on home health care services, such as adult day health care, long term home health care or the "nursing home without walls" program, and senior housing.

### C. The Decision Below Will Have a Severe Negative Impact on Patients.

Finally, the court's invalidation of the third party employer exemption would limit the flexibility currently treasured by many thousands of patients receiving home health care and

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[13] New York State Department of Health, Managed Long Term Care Program (June 2004) (http://www.health.state.ny.us/nysdoh/mancare/mltc/index.html).

personal care services through the Medicaid program. To comply with the court's decision, home health care agencies, unable to afford costs that are not covered by government reimbursements, will be forced to decrease or eliminate overtime hours and increase part-time staff. In essence, the court's decision will fracture the continuity of care for home care patients and sever multi-year relationships between patients and caregivers. These unintended results, as well as the potential for uncovered shifts, will severely limit access for all individuals needing home care.

This cannot be the result. This Court must review relevant statutory sections to determine their intended meaning and purpose, and the Court must ensure that the third party employer exemption in 29 C.F.R. § 552.109(a) be upheld. Otherwise, the lower court's decision will have a severe and immediate impact on the older and disabled individuals receiving companionship services, the hospitals in our State, and on the long term care system as a whole.

## CONCLUSION

For all of the aforementioned reasons, CCLC respectfully requests that the Court grant Long Island Care at Home's Petition for Writ of Certiorari, and grant such other and further relief as the Court deems proper.

Respectfully submitted,

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April 29, 2005

# EXHIBIT

**EXHIBIT A**

STATE ON NEW YORK—
DEPARTMENT OF HEATLH

INTEROFFICE MEMORANDUM

TO: Members of the Planning Committee and the Codes and Regulations Committee

FROM: Neil P. Benjamin, Assistant Director Division of Health Facility Planning

DATE: January 17, 2003

At the last meeting of the SHRPC, the discussion culminated in staff reevaluation of four key points, to be returned to the joint committees for their consideration this agenda cycle. These issues, with comments by staff, are described below.

1. Develop a process for use of more current nursing home utilization data where relevant.

Historically, the Department has used the most recent year for which utilization data from certified RHCF cost reports are available. While such information is certainly the most reliable, it poses issues of timing, in that there is typically a significant lag (18 to 24 months) between the close of a cost-report year and the compilation of statewide numbers by DOH, with the value of the data declining in proportion to the length of the lag. The most practical alternative to this problem is to identify a source of data that would be reliable yet more current. Consistent with discussions at the November meeting, staff contacted representatives from the nursing home trade associations to determine if such data could be compiled. Both groups have indicated a willingness to assist the Department in developing a process through which their databases could be utilized to provide more timely information. Department staff will meet with rep-

resentatives of the associations to develop such a process and will keep the Council apprised of these efforts.

2. Projected Need for Community-Based Programs

Some members of the Council requested a chart illustrating the current resource of long-term home health care and community-based services. Members felt that a discussion of this segment of the post-acute continuum and its impact on the planning for RHCF beds should occur within the revision process for section 709.3. The attached chart shows the availability of such services in 2000, by county, and projected to 2007. The format is consistent with 709.3(d)(12), which lists RHCF bed need by county. Mr. Robert Dougherty will act as lead DOH staff on this topic.

3. Revised draft of the regulations

A revised draft of section 709.3 is attached. This differs from the draft distributed with the December 5, 2002 SHRPC agenda only in changes to subdivision (h), which addresses local factors. The revised subdivision clarifies that local factors are to be applied only after an affirmative finding of need under subdivisions (d) or (e), which, respectively, set forth the county-based need methodology and address the application of HSA long-term care plans for areas where HSAs are operational.

The practical effect of this is that review of local factors would be applied regardless of whether a county's utilization were above or below 97 percent. The influence of the 97 percent factor on bed need recommendations has been discussed extensively in previous meetings. Extending local factor review provides the Department and the Council with broader discretion in making judgments about the post-acute delivery system in a particular community. For example, an application in a county with need and occupancy above 97 percent could conceivably

be recommended for disapproval if review of local factors warrants. Conversely, an applicant in a county with need but with occupancy below 97 percent could be found in need after review of local factors. This, coupled with more current data (as described in item 1, above), provides section 709.3 greater flexibility in making judgments about what is best for a given community and the health care delivery system in general with respect to long-term care services.

4. Revised flow chart

   A revised chart showing the sequence of steps in the public need review of applications for nursing home beds is also attached.

In addition to the above issues, I reported at the last meeting that the Central New York HSA had submitted comments on the draft need methodology. A copy of those comments is attached for your discussion.

**Final 2007 Need - Residential Health Care Facility and Other LTC Resources** 1/15/2003

| County | 2007 Final Need (RHCF) | *Existing Beds 37547 | Unmet Need: 2007 Final Need Minus Existing Beds | 2000 Frail Elderly ACF Census | 2000 ALP Census | Supportive Housing | 2007 Estimated Supportive Housing | 2000 LTHHCP Census | 2000 CHHA 90 Days Plus Census | 2000 Personal Census | Community Based | 2007 Estimated Community Based |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Albany | 2,351 | 2,498 | (147) | 422 | 45 | 467 | 437 | 377 | 436 | 308 | 1,121 | 1,686 |
| Allegany | 343 | 361 | (18) | 103 | 0 | 103 | 82 | 52 | 116 | 107 | 275 | 317 |
| Broome | 1,682 | 1,715 | (33) | 446 | 67 | 513 | 401 | 214 | 173 | 408 | 795 | 1,180 |
| Cattaraugus | 597 | 574 | 23 | 168 | 0 | 168 | 136 | 63 | 93 | 179 | 335 | 462 |
| Cayuga | 557 | 589 | (32) | 255 | 55 | 310 | 223 | 3 | 66 | 108 | 177 | 384 |
| Chautauqua | 1,172 | 1,314 | (142) | 373 | 63 | 436 | 303 | 178 | 16 | 417 | 611 | 826 |
| Chemung | 702 | 736 | (34) | 214 | 0 | 214 | 164 | 11 | 84 | 249 | 344 | 494 |
| Chenango | 457 | 564 | (107) | 81 | 0 | 81 | 68 | 0 | 307 | 98 | 405 | 373 |
| Clinton | 557 | 482 | 75 | 60 | 0 | 60 | 83 | 50 | 143 | 234 | 427 | 550 |
| Columbia | 752 | 806 | (54) | 70 | 0 | 70 | 89 | 63 | 89 | 58 | 210 | 386 |
| Cortland | 329 | 400 | (71) | 70 | 0 | 70 | 56 | 83 | 142 | 82 | 307 | 293 |
| Delaware | 448 | 443 | 5 | 88 | 0 | 88 | 86 | 32 | 130 | 110 | 272 | 357 |
| Dutchess | 1,925 | 1,972 | (47) | 131 | 77 | 208 | 270 | 249 | 224 | 312 | 785 | 1,385 |
| Erie | 6,975 | 7,131 | (156) | 2,204 | 162 | 2,366 | 1,862 | 763 | 2,528 | 1,593 | 4,884 | 6,173 |
| Essex | 244 | 338 | (94) | 86 | 0 | 86 | 56 | 0 | 77 | 111 | 188 | 202 |
| Franklin | 229 | 235 | (6) | 45 | 0 | 45 | 41 | 27 | 304 | 230 | 561 | 371 |
| Fulton | 375 | 360 | 15 | 79 | 17 | 96 | 82 | 121 | 102 | 174 | 397 | 402 |
| Genesee | 468 | 508 | (40) | 84 | 0 | 84 | 82 | 31 | 86 | 53 | 170 | 298 |
| Greene | 383 | 256 | 127 | 119 | 12 | 131 | 140 | 27 | 15 | 37 | 79 | 257 |
| Hamilton | 17 | 0 | 17 | 0 | 0 | 0 | 3 | 0 | 28 | 26 | 54 | 41 |
| Herkimer | 445 | 557 | (112) | 145 | 0 | 145 | 96 | 26 | 181 | 128 | 335 | 358 |
| Jefferson | 642 | 719 | (77) | 105 | 0 | 105 | 102 | 92 | 124 | 154 | 370 | 514 |
| Lewis | 150 | 160 | (10) | 12 | 0 | 12 | 18 | 0 | 33 | 77 | 110 | 132 |
| Livingston | 402 | 402 | (0) | 73 | 0 | 73 | 75 | 0 | 109 | 37 | 146 | 282 |
| Madison | 438 | 400 | 38 | 58 | 0 | 58 | 72 | 55 | 80 | 14 | 149 | 311 |
| Monroe | 5,060 | 5,727 | (667) | 1,362 | 93 | 1,455 | 1,136 | 1,289 | 1,673 | 35 | 2,997 | 3,975 |
| Montgomery | 534 | 590 | (56) | 105 | 36 | 141 | 115 | 87 | 43 | 126 | 256 | 357 |
| Nassau | 9,008 | 7,793 | 1,215 | 1,456 | 0 | 1,456 | 1,740 | 946 | 669 | 2,706 | 4,321 | 7,441 |
| Niagara | 1,841 | 1,730 | 111 | 128 | 146 | 274 | 320 | 115 | 86 | 336 | 537 | 1,148 |
| Oneida | 2,349 | 2,779 | (430) | 315 | 100 | 415 | 382 | 81 | 446 | 315 | 842 | 1,381 |
| Onondaga | 3,270 | 3,097 | 173 | 774 | 68 | 842 | 757 | 124 | 657 | 643 | 1,424 | 2,398 |
| Ontario | 645 | 623 | 22 | 174 | 15 | 189 | 157 | 55 | 342 | 82 | 479 | 600 |
| Orange | 2,006 | 1,578 | 428 | 325 | 55 | 380 | 488 | 361 | 228 | 465 | 1,054 | 1,749 |

**Final 2007 Need - Residential Health Care Facility and Other LTC Resources** 1/15/2003

| County | 2007 Final Need (RHCF) | *Existing Beds 37547 | Unmet Need: 2007 Final Need Minus Existing Beds | 2000 Frail Elderly ACF Census | 2000 ALP Census | Supportive Housing | 2007 Estimated Supportive Housing | 2000 LTHHCP Census | 2000 CHHA 90 Days Plus Census | 2000 Personal Census | Community Based | 2007 Estimated Community Based |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Orleans | 272 | 325 | (53) | 73 | 0 | 73 | 54 | 109 | 83 | 16 | 208 | 230 |
| Oswego | 705 | 729 | (24) | 90 | 0 | 90 | 102 | 81 | 206 | 162 | 449 | 604 |
| Otsego | 414 | 384 | 30 | 150 | 29 | 179 | 135 | 19 | 53 | 81 | 153 | 297 |
| Putnam | 476 | 320 | 156 | 0 | 0 | 0 | 43 | 48 | 172 | 62 | 282 | 538 |
| Rensselaer | 1,196 | 1,243 | (47) | 222 | 56 | 278 | 233 | 129 | 154 | 187 | 470 | 763 |
| Rockland | 2,058 | 1,736 | 322 | 297 | 140 | 437 | 468 | 220 | 464 | 242 | 926 | 1,647 |
| St.Lawrence | 666 | 893 | (227) | 73 | 0 | 73 | 82 | 67 | 306 | 454 | 827 | 675 |
| Saratoga | 1,257 | 825 | 432 | 163 | 0 | 163 | 233 | 76 | 87 | 71 | 234 | 809 |
| Schenectady | 1,239 | 1,382 | (143) | 253 | 0 | 253 | 231 | 212 | 338 | 128 | 678 | 922 |
| Schoharie | 174 | 125 | 49 | 59 | 24 | 83 | 66 | 0 | 43 | 63 | 106 | 170 |
| Schuyler | 119 | 120 | (1) | 58 | 39 | 97 | 55 | 0 | 81 | 27 | 108 | 120 |
| Seneca | 327 | 280 | 47 | 34 | 0 | 34 | 50 | 17 | 16 | 1 | 34 | 152 |
| Steuben | 797 | 699 | 98 | 144 | 0 | 144 | 154 | 56 | 160 | 41 | 257 | 526 |
| Suffolk | 9,193 | 8,634 | 559 | 1,714 | 0 | 1,714 | 1,893 | 646 | 2,714 | 1,217 | 4,577 | 7,716 |
| Sullivan | 586 | 487 | 99 | 81 | 0 | 81 | 98 | 51 | 95 | 159 | 305 | 476 |
| Tioga | 356 | 288 | 68 | 8 | 25 | 33 | 51 | 21 | 83 | 42 | 146 | 275 |
| Tompkins | 476 | 520 | (44) | 103 | 0 | 103 | 98 | 6 | 57 | 127 | 190 | 356 |
| Ulster | 1,279 | 1,322 | (43) | 116 | 98 | 214 | 215 | 177 | 220 | 384 | 781 | 1,045 |
| Warren | 432 | 402 | 30 | 151 | 0 | 151 | 115 | 30 | 213 | 124 | 367 | 417 |
| Washington | 513 | 530 | (17) | 63 | 0 | 63 | 68 | 51 | 132 | 102 | 285 | 365 |
| Wayne | 665 | 559 | 106 | 36 | 0 | 36 | 72 | 0 | 57 | 103 | 160 | 411 |
| Westchester | 6,742 | 7,156 | (414) | 413 | 0 | 413 | 726 | 1,261 | 922 | 1,481 | 3,664 | 5,285 |
| Wyoming | 350 | 340 | 10 | 35 | 0 | 35 | 50 | 0 | 151 | 51 | 202 | 293 |
| Yates | 162 | 196 | (34) | 51 | 0 | 51 | 37 | 4 | 82 | 41 | 127 | 139 |
| Bronx | 9,390 | 11,595 | (2,205) | 394 | 150 | 544 | 958 | 2,995 | 342 | 8,186 | 11,523 | 9,795 |
| Kings | 11,560 | 10,913 | 647 | 586 | 154 | 740 | 1,611 | 3,071 | 3,748 | 26,548 | 33,367 | 21,358 |
| NewYork | 7,027 | 7,305 | (278) | 225 | 115 | 340 | 926 | 2,335 | 10,812 | 9,578 | 22,725 | 12,683 |
| Queens | 14,270 | 12,406 | 1,864 | 404 | 470 | 874 | 1,727 | 2,632 | 1,259 | 7,676 | 11,567 | 15,200 |
| Richmond | 3,343 | 3,062 | 281 | 389 | 117 | 506 | 608 | 499 | 55 | 1,054 | 1,608 | 2,724 |
| New York State | 123,402 | 122,213 | 1,189 | 16,515 | 2,428 | 18,943 | 21,201 | 20,388 | 32,935 | 68,420 | 121,743 | 123,074 |